

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE FUTURE LAND USE ELEMENT (TO REVISE AND UPDATE); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

WHEREAS, the Palm Beach County Local Planning Agency conducted its public hearings on June 15, 22 and July 13, 2001 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on August 14, 2001 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County received on November 5, 2001 the Department of Community Affairs "Objections, Recommendations, and Comments Report," dated November 2, 2001 which was the Department's written review of the proposed Comprehensive Plan amendments; and

WHEREAS, the written comments submitted by the Department of Community Affairs contained no objections to the amendments contained in this ordinance;

1 WHEREAS, on December 5, 2001 the Palm Beach County Board of
2 County Commissioners held a public hearing to review the written
3 comments submitted by the Department of Community Affairs and to
4 consider adoption of the amendments; and

5 WHEREAS, the Palm Beach County Board of County Commissioners has
6 determined that the amendments comply with all requirements of the
7 Local Government Comprehensive Planning and Land Development
8 Regulations Act.

9 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
10 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

11 Part I. Amendments to the 1989 Comprehensive Plan

12 Amendments to the text of the following Element of the 1989
13 Comprehensive Plan are hereby adopted and attached to this Ordinance
14 in Exhibit 1:

15 A. Future Land Use Element, to revise and update; and

16 B. Amending all elements as necessary for internal
17 consistency.

18 Part II. Repeal of Laws in Conflict

19 All local laws and ordinances applying to the unincorporated area
20 of Palm Beach County in conflict with any provision of this ordinance
21 are hereby repealed to the extent of such conflict.

22 Part III. Severability

23 If any section, paragraph, sentence, clause, phrase, or word of
24 this Ordinance is for any reason held by the Court to be
25 unconstitutional, inoperative or void, such holding shall not affect
26 the remainder of this Ordinance.

27 Part IV. Inclusion in the 1989 Comprehensive Plan

28 The provision of this Ordinance shall become and be made a part
29 of the 1989 Palm Beach County Comprehensive Plan. The Sections of the
30 Ordinance may be renumbered or relettered to accomplish such, and the
31 word "ordinance" may be changed to "section," "article," or any other
32 appropriate word.

33 Part V. Effective Date

34 The effective date of this plan amendment shall be the date a
35 final order is issued by the Department of Community Affairs or
36 Administration Commission finding the amendment in compliance in

1 accordance with Section 163.3184, Florida Statutes, whichever occurs
2 earlier. No development orders, development permits, or land uses
3 dependent on this amendment may be issued or commence before it has
4 become effective. If a final order of noncompliance is issued by the
5 Administration Commission, this amendment may nevertheless be made
6 effective by adoption of a resolution affirming its effective status,
7 a copy of which resolutions shall be sent to the Department of
8 Community Affairs, Bureau of Local Planning, 2555 Shumard Oak
9 Boulevard
10 Tallahassee, Florida 32399-2100.

11 APPROVED AND ADOPTED by the Board of County Commissioners of
12 Palm Beach County, on the 5 day of December, 2001.

13 ATTEST:
14 DOROTHY H. WILKEN, Clerk

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

15 By: *Dorothy H. Wilken*
16 Deputy Clerk

17 By: *Warren H. Newell*
18 Warren H. Newell, Chairman

19 APPROVED AS TO FORM AND LEGAL SUFFICIENCY
20 *[Signature]*
21 COUNTY ATTORNEY

22 Filed with the Department of State on the 14th day of
23 December, 2001

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EXHIBIT 1

A. Future Land Use Element, General FLUE Amendments

REVISIONS: To revise and update. The revisions are numbered below, and shown with the added text underlined, and the deleted text ~~struck-out~~.

1. **REVISED Policy 1.2-b:** The County shall establish and maintain minimum densities in residential future land use categories of ~~five~~ eight units per acre or greater, as specified in Table 2.1-1. To promote the most efficient use of infrastructure and reduce the potential for urban sprawl, development shall not be permitted lower than the established minimum density of a future land use category, unless exempted as provided below,
 1. The Planning Director may approve a 25% exemption from the minimum density requirement subject to the following:
 - a. The proposed density reduction shall not exceed 25% of the specified minimum density of the applicable future land use category; and,
 - b. An analysis must be completed by the applicant that demonstrates:
 - 1) that the impact of the reduction in density does not negatively impact or result in the under utilization of the overall infrastructure system; and,
 - 2) the resulting density of the proposed project is compatible with existing and proposed adjacent future land uses.
 2. ~~The Planning Director may approve a full exemption from the minimum density requirement of the MR-5 land use category subject to the following:~~
 - a. ~~The subject parcel has a Medium Residential, 5 unit per acre (MR-5) land use designation; and~~
 - b. ~~The subject parcel is part of a large lot residential subdivision, where the predominant lot size is greater than 1 acre; and~~
 - c. ~~The subdivision was established prior to the adoption of the 1989 Comprehensive Plan; and~~
 - d. ~~The proposed density is compatible with the existing density in the subdivision.~~
 3. Property which, at the time of Plan adoption (August 1989), had zoning approval that allowed fewer dwelling units than the minimum required by the plan may also be exempted from the minimum density requirements.

**TABLE 2.1-1
RESIDENTIAL CATEGORIES & ALLOWED DENSITIES**

Category	Dwelling Units Per Gross Acres			
	PDD Max	Maximum	Minimum	Entitlement
Low Residential 2 <u>4 up to 2 du per 1 acre</u>	2.0 DU/AC	1.5 DU/AC		0.1 DU/AC
Low Residential 3 <u>4 up to 3 du per 1 acre</u>	3.0 DU/AC	2.0 DU/AC		0.1 DU/AC
Medium Residential 5 <u>3 up to 5 du per 1 acre</u>	5.0 DU/AC	4.0 DU/AC	~~3.0 DU/AC~~	0.2 DU/AC
<i>unaltered text omitted</i>				

Objective 2.2 Future Land Use Provisions

2. REVISED Table 2.2.2-1

Table 2.2.2-1 Additional Criteria for Determining the Depth, Width, and Use for Commercial and Industrial Designations	
IF:	THEN:
A. 1. A lot extends beyond the commercial or industrial land use designation line on the FLUA; and 2. the land area beyond the line on the FLUA totals less than one acre.	~~The County may amend the FLUA to change the land use for the lot area beyond the line, to commercial with cross-hatching or industrial, and the subject area may be re-zoned to commercial or industrial~~ <u>rezone the area beyond the line to commercial with cross-hatching or industrial</u> , provided: 1. the entire lot is developed as a unified site plan; and 2. the amended lot area on the FLUA is only be used for water retention, landscaping, and/or at-grade parking.
B. 1. A lot extends beyond the commercial or industrial land use designation line on the FLUA; and 2. the width of the lot does not exceed 300 feet; and 3. the lots adjacent to both sides of the subject lot have previously been granted a commercial or industrial designation beyond the line on the FLUA.	~~The County may amend the FLUA to change the land use for~~ <u>rezone</u> the lot area beyond the line to commercial or industrial to the same depth as exists on the adjacent lot with the lesser depth designated commercial or industrial, ~~and the subject area may be re-zoned~~ provided: 1. the remaining portion of the lot would not be substandard for residential or another use permitted under its future land use designation. 2. both lots are not cross-hatched. If both lots are designated as commercial with cross-hatching, then the portion of the subject lot behind the line shall be amended to commercial with cross-hatching.
C. 1. A lot has a commercial or industrial land use designation on the FLUA; and 2. does not front on a collector or arterial roadway.	The lot may be re-zoned to commercial or industrial provided: 1. it is combined through a unity of title with a lot which fronts on a collector or arterial roadway; and 2. the lots are developed through a unified site plan.
D. A lot does not have a commercial or industrial land use designation, but: 1. has frontage on a collector or arterial roadway; 2. has a maximum width of one hundred and fifty (150) feet; and 3. is situated between and adjacent to lots with commercial and/or industrial land use designations.	~~The County may amend the FLUA to change the land use designation for the lot to commercial or industrial and the lot may be re-zoned~~ <u>rezone the subject lot</u> to commercial or industrial. This shall apply even if one or both of the adjacent commercial and/or industrial designated lots are located within a municipality.
E. A lot with a commercial land use designation on the FLUA has a portion which is indicated by cross-hatched lines.	The portion of the lot that is cross-hatched: 1. must only be used for water retention, landscaping, and/or at-grade parking; or 2. may be developed as residential based on the underlying residential land use designation.
F. A lot, or portion thereof: 1. was granted commercial or industrial zoning prior to August 4, 1980; and 2. has a commercial or industrial land use designation on more than fifty percent of the lot area.	~~The County may amend the FLUA to change the land use designation for~~ <u>rezone</u> the entire lot to commercial or industrial. Lots that meet this criteria ~~will~~ <u>may</u> not be restricted by the requirements of A through E above; <u>however, the County may impose cross-hatching on the parcel to address compatibility concerns.</u>
G. 1. A lot was granted a commercial designation on the FLUA at the time of the adoption of the Comprehensive Plan; and 2. its sole frontage is on a local street.	The lot shall be limited to single or double occupancy professional offices; or may be re-zoned to commercial or provided: 1. it is combined through a unity of title with a lot which fronts on a collector or arterial roadway; and 2. the lots are developed through a unified site plan.
Note: 'Lot' is defined in the Introduction and Administration Element. The intent of the above language which references ~~amending the FLUA or~~ re-zoning to "commercial or industrial" is meant to grant commercial land use designations and zoning to those parcels located between or adjacent to commercial parcels and grant industrial land use designations and zoning to those parcels located between and adjacent to industrial parcels. Properties utilizing the provisions of A, B, C, or D, above, may be the subject of a County initiated land use amendment after the rezoning.	

OBJECTIVE 2.6 Transfer of Development Rights

3. **REVISED Policy 2.6-i:** The County shall not approve the designation of receiving areas which would result in an incompatibility with the surrounding land uses (both existing and future). Compatibility shall be determined ~~by the BCC~~ based upon the following factors:
1. The character of the proposed development in relation to the adjacent properties including building type and size and the gross and net densities of the proposed receiving area and the adjacent properties; and,
 2. Proximity of the proposed receiving area to environmentally sensitive lands.

The determination of compatibility may be made by the BCC or the Development Review Committee (DRC).

III. Implementation of the Future Land Use Element

4. **REVISED D. Transfer of Development Rights**

Pursuant to Policy 2.6-i, ~~the BCC determines~~ the compatibility of a proposed Transfer of Development Rights (TDR) receiving area shall be determined based upon the following factors:

1. The character of the proposed development in relation to the adjacent properties including building type and size and the gross and net densities ~~of the proposed~~ of the proposed receiving area and the adjacent properties. ~~Character is evaluated as follows:~~
 - a. ~~Net Density. When a difference of 2 du/acre is proposed between the net density of the receiving area and the adjacent property, a minimum 25 foot buffer of native vegetation is required. For every additional 1 du/acre (or fraction thereof), an additional 5 foot buffer of native vegetation is required.~~
 - b. ~~Building Type and Size. The site development plan for the proposed receiving area must reflect a design that is harmonious and efficiently organized in relation to the size and shape of the tract and the character of the adjoining properties considering the type and size (mass and bulk) of the buildings.~~
 - c. ~~Site Design. The site development plan for the proposed receiving area must consider the natural topography, native vegetation, existing lakes and natural and man-made constraints found on-site and reflect the limitations imposed by these factors.~~

The determination of compatibility may be made by the BCC or the Development Review Committee (DRC)

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STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on November 5, 2001.
DATED at West Palm Beach, FL on 12/31/01.
DOROTHY H. WILKEN, Clerk
By: [Signature] D.C.